

<p style="text-align: right;">198</p> <p>1 John Edmonds</p> <p>2 question that the auditors now have</p> <p>3 determined that. I don't hear any</p> <p>4 testimony here about anybody having</p> <p>5 determined it.</p> <p>6 MR. TRAUB: He stated that he</p> <p>7 unequivocally made a statement to the</p> <p>8 court. So clearly someone --</p> <p>9 A. I unequivocally made it. This is my</p> <p>10 affidavit, and I don't -- I don't submit</p> <p>11 affidavits on information and belief; I never do</p> <p>12 that.</p> <p>13 Q. Do you wish to strike or remove that</p> <p>14 paragraph sitting here today?</p> <p>15 A. I do not. I want it in. I do not</p> <p>16 wish to strike any paragraph of any affidavit or</p> <p>17 document that I have submitted in this matter.</p> <p>18 Q. Okay. Turning to page 18,</p> <p>19 paragraph 40.</p> <p>20 A. What exhibit is that?</p> <p>21 Q. It's not an exhibit. It's the</p> <p>22 actual affidavit itself.</p> <p>23 A. Okay. All right. As shown in</p> <p>24 Exhibit B, reads, "Attached hereto, in reviewing</p> <p>25 defendant Dalton's general ledgers, plaintiff's</p>	<p style="text-align: right;">200</p> <p>1 John Edmonds</p> <p>2 A. No, all I did was to ask them to go</p> <p>3 forward, to get as much information as they can</p> <p>4 get and continue to -- to investigate and to</p> <p>5 determine what the problems were.</p> <p>6 Q. Other than not receiving -- or</p> <p>7 allegedly not receiving information on this</p> <p>8 account, are you contending there's anything</p> <p>9 wrong with this investment account at Salomon</p> <p>10 Smith?</p> <p>11 A. I don't know whether there's</p> <p>12 anything wrong or not. That's the reason that</p> <p>13 I'm having the accountants go through it. But</p> <p>14 if -- if they continue and the Seaveys continue</p> <p>15 to refuse to give me access, then I believe that</p> <p>16 they're secreting and hiding.</p> <p>17 Q. Mr. Edmonds, in this lawsuit, you</p> <p>18 filed a series of different document requests,</p> <p>19 did you not?</p> <p>20 A. Yes.</p> <p>21 Q. And in response to those document</p> <p>22 requests, the Seaveys have made, along with Marks</p> <p>23 Paneth & Shron, a large number of documents</p> <p>24 available to your accountants; is that --</p> <p>25 MR. HAYWOODE: I'm going to</p>
<p style="text-align: right;">199</p> <p>1 John Edmonds</p> <p>2 auditors found entries indicating that, in 2006,</p> <p>3 defendant Dalton has deposited approximately</p> <p>4 \$800,000 to \$1 million in investment accounts for</p> <p>5 Lakeview partnership, as shown in Exhibit A and B</p> <p>6 attached hereto.</p> <p>7 "Defendant Dalton has refused to</p> <p>8 provide plaintiff's auditors with the financial</p> <p>9 statements for these investment accounts, names</p> <p>10 and addresses of the investors, and/or any</p> <p>11 contact information for these investments made in</p> <p>12 2006 which represent a substantial amount of the</p> <p>13 partnerships' funds."</p> <p>14 Q. When you look at Exhibit B, it shows</p> <p>15 that the account that they're referring to is the</p> <p>16 Salomon Smith reserve account. Isn't it true,</p> <p>17 Mr. Edmonds, that you are in fact a signatory on</p> <p>18 that account?</p> <p>19 A. I may be, but that does not -- that</p> <p>20 does not give me -- if the other side, Seaveys,</p> <p>21 are controlling the books and records, that does</p> <p>22 not give me a right to get the information.</p> <p>23 Q. Did you give your accountants any</p> <p>24 information with regards to the Salomon Smith</p> <p>25 reserve account?</p>	<p style="text-align: right;">201</p> <p>1 John Edmonds</p> <p>2 object --</p> <p>3 Q. -- correct?</p> <p>4 MR. HAYWOODE: -- to the question</p> <p>5 based on the use of relative terms like</p> <p>6 "large" and "some" unless there's an</p> <p>7 accurate quantification here.</p> <p>8 Q. Over 20 banker's boxes full of</p> <p>9 boxes, have they not?</p> <p>10 MR. HAYWOODE: Is it 20 banker's</p> <p>11 boxes?</p> <p>12 A. I know nothing about that.</p> <p>13 Q. Do you know how many pages of</p> <p>14 documents have been produced in response to your</p> <p>15 document request?</p> <p>16 A. No. I've indicated to you, and I</p> <p>17 can repeat, that my accountants indicate to me</p> <p>18 that somewhere between 40 to 60 percent of the</p> <p>19 requests that they have made for documents have</p> <p>20 been declined.</p> <p>21 Q. Since the inception of this lawsuit?</p> <p>22 A. Beginning as of the time that they</p> <p>23 were retained.</p> <p>24 Q. My question for you was, since the</p> <p>25 inception of this lawsuit, have they --</p>

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<p style="text-align: right;">202</p> <p>1 John Edmonds</p> <p>2 A. Beginning as of the time that they</p> <p>3 were retained to investigate this matter and to</p> <p>4 report their findings.</p> <p>5 Q. And in fact, you made a partnership</p> <p>6 demand under the New York partnership laws to</p> <p>7 come to Dalton and do an inspection of the books</p> <p>8 and records, did you not?</p> <p>9 A. I may have. I probably did. And</p> <p>10 that has nothing to do with whether or not those</p> <p>11 partnership documents were made available and</p> <p>12 indeed those investment accounts were made</p> <p>13 available. They continue to refuse to make those</p> <p>14 available.</p> <p>15 Q. To your knowledge, as you sit here</p> <p>16 today, have those documents been -- have the</p> <p>17 defendants in any way refused to produce those</p> <p>18 documents?</p> <p>19 A. I repeat what I said earlier, that</p> <p>20 my accountants report to me --</p> <p>21 Q. When is the last time that your</p> <p>22 accountants reported this to you?</p> <p>23 A. The accountants -- I said I've had</p> <p>24 several oral meetings with them, and they have</p> <p>25 indicated to me that they have great difficulty</p>	<p style="text-align: right;">204</p> <p>1 John Edmonds</p> <p>2 examination of the books and records as they are</p> <p>3 made available.</p> <p>4 Q. Mr. Edmonds, have you ever asked</p> <p>5 yourself if maybe the accountants you hired are</p> <p>6 not capable of doing this audit?</p> <p>7 A. No, I would not ask myself that. I</p> <p>8 think that they're very capable. I think they're</p> <p>9 at least as capable as the accountants that</p> <p>10 Shron -- at least as capable and probably better</p> <p>11 accountants.</p> <p>12 Q. Mr. Edmonds, again, I'm going to ask</p> <p>13 you not point to me or raise your voice.</p> <p>14 A. Well, when you tell me about whether</p> <p>15 or not --</p> <p>16 MR. HAYWOODE: Let the record</p> <p>17 reflect this is a capacious room and</p> <p>18 there's a long distance between Mr. Edmonds</p> <p>19 and Mr. Traub, my esteemed counsel or -- I</p> <p>20 just object to characterizations that he's</p> <p>21 pointing or raising his voice inordinately.</p> <p>22 He has a powerful voice. And there</p> <p>23 is some emotion here. I don't feel it's</p> <p>24 excessive. I think it's prejudicial on the</p> <p>25 record to keep saying pointing your finger</p>
<p style="text-align: right;">203</p> <p>1 John Edmonds</p> <p>2 in getting the information and materials that</p> <p>3 they need about the partnerships' investments,</p> <p>4 et cetera.</p> <p>5 Q. When was the last time they made</p> <p>6 that representation to you?</p> <p>7 A. In any meeting that we might have</p> <p>8 had --</p> <p>9 Q. When is the last meeting you had</p> <p>10 with them?</p> <p>11 A. I don't recall the exact date, but</p> <p>12 it's been since we've instituted this action.</p> <p>13 Q. Has it been in 2009?</p> <p>14 A. Yes, I've met with them in 2009.</p> <p>15 Q. Have you ever asked them whether or</p> <p>16 not they have enough documents to --</p> <p>17 A. They obviously do not.</p> <p>18 Q. Mr. Edmonds, let me finish my</p> <p>19 question.</p> <p>20 A. I mean, there's no point in putting</p> <p>21 that question to me, do they have enough</p> <p>22 documents.</p> <p>23 Q. Mr. Edmonds --</p> <p>24 A. They obviously do not. That's the</p> <p>25 reason that they are continuing to do the</p>	<p style="text-align: right;">205</p> <p>1 John Edmonds</p> <p>2 and shouting.</p> <p>3 Q. Mr. Edmonds, if you'll look on</p> <p>4 paragraph 41 on page 18 of your affidavit. Would</p> <p>5 you please look at paragraph 41, page 18,</p> <p>6 Mr. Edmonds. You talked about a Merrill Lynch</p> <p>7 account set up for Lakeview partnership in which</p> <p>8 a check for \$82,720 was sent.</p> <p>9 Are you aware that the DHCR requires</p> <p>10 certain monies to be placed into a</p> <p>11 DHCR-controlled account every month?</p> <p>12 A. I'm aware, as I said to you earlier,</p> <p>13 that DHCR has signature rights on partnership</p> <p>14 accounts and that accounts are handled in that</p> <p>15 fashion because they have a program in which they</p> <p>16 look to have these investments made in government</p> <p>17 instruments, county instruments, city</p> <p>18 instruments, this kind of thing. So to the</p> <p>19 extent that that's being done, they require that</p> <p>20 they also sign off.</p> <p>21 Q. So you require then the</p> <p>22 partnerships -- or at least Lakeview, which is</p> <p>23 under DHCR purview, requires that money be sent</p> <p>24 from the rent revenue accounts to a</p> <p>25 DHCR-controlled account; is that correct?</p>

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<p style="text-align: right;">206</p> <p>1 John Edmonds</p> <p>2 A. To an account controlled by DHCR and</p> <p>3 Seavey.</p> <p>4 Q. You believe that DHCR is conspiring</p> <p>5 with Seavey on this account?</p> <p>6 MR. HAYWOODE: Excuse me, the word</p> <p>7 was what?</p> <p>8 THE WITNESS: "Conspiring."</p> <p>9 MR. HAYWOODE: Conspiring.</p> <p>10 THE WITNESS: No.</p> <p>11 MR. HAYWOODE: Objection.</p> <p>12 A. I believe that DHCR is doing what</p> <p>13 they're required to do, and that is to have a</p> <p>14 signature on the accounts to make certain that</p> <p>15 the governmental programs are in accordance with</p> <p>16 the mandate from the federal government, where</p> <p>17 these monies begin.</p> <p>18 Q. What is the basis for your statement</p> <p>19 that the Seaveys have signature rights on this</p> <p>20 Merrill Lynch account?</p> <p>21 A. If it's DHCR-controlled, they</p> <p>22 obviously have signature rights because it would</p> <p>23 require two signatures, DHCR's signature and the</p> <p>24 signature on behalf of the partnership.</p> <p>25 Q. Have you seen any documents to show</p>	<p style="text-align: right;">208</p> <p>1 John Edmonds</p> <p>2 You state, "The defendant Dalton had</p> <p>3 contracted with TMO Parent, LLC; Merit Parking,</p> <p>4 LLC; Macquarie New York Parking III, LLC; Sebco</p> <p>5 Laundry to lease property of the partnerships'</p> <p>6 housing developments. A portion of the monies</p> <p>7 defendant Dalton received in connection with</p> <p>8 these commercial leases for the partnership</p> <p>9 housing developments was delivered to the Seavey</p> <p>10 family and the Seavey organization."</p> <p>11 What is the basis for your statement</p> <p>12 that a portion of the money was delivered to the</p> <p>13 Seavey family and the Seavey organization?</p> <p>14 A. The partnership agreements, that the</p> <p>15 Seaveys have with the lessee.</p> <p>16 Q. Have you seen any partnership</p> <p>17 agreements between the Seaveys and the lessee?</p> <p>18 A. Well, these are -- they're here.</p> <p>19 That's what this is.</p> <p>20 Q. Exhibits D and L?</p> <p>21 A. Yeah.</p> <p>22 Q. Well, Exhibit D appears to be a</p> <p>23 garage lease agreement dated December 16, 1996,</p> <p>24 and then with an extension in 1996.</p> <p>25 A. And also talks about the fact that</p>
<p style="text-align: right;">207</p> <p>1 John Edmonds</p> <p>2 you that the Seaveys have signature rights on</p> <p>3 this Merrill Lynch account?</p> <p>4 A. They haven't produced any. They</p> <p>5 have all the documents. I keep telling you they</p> <p>6 have all these documents. Ask your -- ask your</p> <p>7 clients where those documents are.</p> <p>8 Q. Sir, again, this is just your</p> <p>9 presumption then that the Seaveys have signature</p> <p>10 rights in this Merrill Lynch account?</p> <p>11 A. My presumption, what I understand to</p> <p>12 be the process used by government agencies to</p> <p>13 protect these investments so that the investors</p> <p>14 are not able to go in and invest in items that</p> <p>15 they would not approve.</p> <p>16 Q. Looking at paragraph 44 on page 19</p> <p>17 of your affidavit.</p> <p>18 MR. TRAUB: Why don't we take a take</p> <p>19 a five-minute break.</p> <p>20 (Recess from the record.)</p> <p>21 BY MR. TRAUB:</p> <p>22 Q. Mr. Edmonds, if you'll turn with me</p> <p>23 to page 19, paragraph 44.</p> <p>24 A. Of the affidavit?</p> <p>25 Q. Of the affidavit, please.</p>	<p style="text-align: right;">209</p> <p>1 John Edmonds</p> <p>2 the -- that the lessee has the right to renew and</p> <p>3 to renew and to renew.</p> <p>4 Q. Let's start with this one. What is</p> <p>5 your understanding of what the fair market value</p> <p>6 for the rent for this garage would have been in</p> <p>7 1996?</p> <p>8 A. I've been reliably informed that</p> <p>9 this lease is substantially under what other</p> <p>10 leases in the area are paying.</p> <p>11 Q. And who informed you of this fact?</p> <p>12 A. Hal H. Harris, who has or had</p> <p>13 clients in the garage business.</p> <p>14 Q. But again, this is not a partnership</p> <p>15 agreement, is it? This is a lease.</p> <p>16 A. It's a lease between --</p> <p>17 Q. Fifth and 106th as approved by the</p> <p>18 DHCR?</p> <p>19 A. Yes.</p> <p>20 Q. With the -- with Merit Parking Corp;</p> <p>21 is that correct?</p> <p>22 A. Yes, Merit. They have several</p> <p>23 names, Merit et cetera.</p> <p>24 Q. And this is the source of your</p> <p>25 understanding that the Seaveys are personally</p>

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<p style="text-align: right;">210</p> <p>1 John Edmonds</p> <p>2 getting money from the commercial leases?</p> <p>3 A. I said yes. I said that I</p> <p>4 visited Albany and secured this information from</p> <p>5 the Department of State.</p> <p>6 Q. Have you even any checks whereby the</p> <p>7 garage or the laundry are paying the Seaveys</p> <p>8 directly?</p> <p>9 A. If checks, they go to the Seaveys.</p> <p>10 They don't come to me.</p> <p>11 Q. So is your answer no, you have not</p> <p>12 seen any checks?</p> <p>13 A. I have not seen any checks.</p> <p>14 Q. Other than this lease agreement and</p> <p>15 this and the partnership agreement that you</p> <p>16 said you saw at the Secretary of State's office,</p> <p>17 have you seen any other documents to support your</p> <p>18 contention that payments are going directly to</p> <p>19 the Seaveys or the Seavey organization?</p> <p>20 A. No, I haven't. And once again, they</p> <p>21 have the books and records and they can tell you</p> <p>22 whether or not Dalton Management and/or ABNS</p> <p>23 receives payments from this lessee.</p> <p>24 Q. Mr. Edmonds, do you have any</p> <p>25 evidence that the money that is supposed to go to</p>	<p style="text-align: right;">212</p> <p>1 John Edmonds</p> <p>2 point to where it is.</p> <p>3 The auditors are saying we didn't</p> <p>4 see it --</p> <p>5 MR. TRAUB: Mel, you're testifying</p> <p>6 now.</p> <p>7 MR. HAYWOODE: -- it doesn't say</p> <p>8 there's not support. It says we didn't see</p> <p>9 it.</p> <p>10 MR. TRAUB: Mel, you're</p> <p>11 testifying --</p> <p>12 MR. HAYWOODE: I'm not testifying to</p> <p>13 any fact in this case, Darren.</p> <p>14 MR. TRAUB: You just did.</p> <p>15 MR. HAYWOODE: I'm simply -- no, I'm</p> <p>16 not. I'm saying that your question as to</p> <p>17 form is wrong because an accountant's</p> <p>18 comment -- any accountant, the IRS,</p> <p>19 anybody, wouldn't say that, you know --</p> <p>20 MR. TRAUB: Mel, you're testifying</p> <p>21 right now.</p> <p>22 MR. HAYWOODE: -- they're just</p> <p>23 saying we didn't see it.</p> <p>24 MR. TRAUB: Mel, you're testifying.</p> <p>25 Your objection is improper under Federal</p>
<p style="text-align: right;">211</p> <p>1 John Edmonds</p> <p>2 the partnerships actually ended up in the</p> <p>3 Seaveys' personal accounts?</p> <p>4 A. What would be evidence? The only</p> <p>5 evidence that there could be would be checks,</p> <p>6 money orders, whatever, that would go to Dalton</p> <p>7 Management or to ABNS.</p> <p>8 Q. And you haven't seen any such</p> <p>9 checks?</p> <p>10 A. No, I have not.</p> <p>11 Q. Isn't it true that Cameron,</p> <p>12 Griffiths & Pryce's report, which is Defendants'</p> <p>13 Exhibit No. 4, alleges problems with</p> <p>14 classification of funds and the way that the</p> <p>15 books are maintained; they do not actually allege</p> <p>16 that there are any missing or unaccounted funds</p> <p>17 at this time?</p> <p>18 MR. HAYWOODE: I'm going to object</p> <p>19 to the characterization of the report.</p> <p>20 That report, like any auditor's report,</p> <p>21 will say that --</p> <p>22 MR. TRAUB: Mel, your objection --</p> <p>23 for what you said so far, that's what</p> <p>24 you're allowed under the rules.</p> <p>25 MR. HAYWOODE: Well, no, I want to</p>	<p style="text-align: right;">213</p> <p>1 John Edmonds</p> <p>2 Rule 30. I'm going to ask you --</p> <p>3 MR. HAYWOODE: I hear your ruling.</p> <p>4 I except from it.</p> <p>5 BY MR. TRAUB:</p> <p>6 Q. Mr. Edmonds --</p> <p>7 MR. HAYWOODE: There may be a day</p> <p>8 when I won't be able to do that.</p> <p>9 Q. -- is there anything you can point</p> <p>10 me in the auditor's investigation report at</p> <p>11 Defendants' Exhibit No. 4 that states that there</p> <p>12 are actually missing or unaccounted for funds?</p> <p>13 MR. HAYWOODE: Objection again as to</p> <p>14 form as to what we mean by</p> <p>15 "unaccounted-for."</p> <p>16 A. Well, no, I testified to the effect</p> <p>17 that Dalton Management as the managing agent</p> <p>18 receives whatever monies that are paid, either</p> <p>19 Dalton Management or ABNS receives, whatever</p> <p>20 monies that are paid by Merit Parking. And I</p> <p>21 haven't seen the checks, no.</p> <p>22 Q. But there's nothing in the report</p> <p>23 that's Defendants' Exhibit No. 4 that says</p> <p>24 there's money that's unaccounted for, is there?</p> <p>25 A. No, thus far.</p>

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<p style="text-align: right;">214</p> <p>1 John Edmonds</p> <p>2 Q. Are you personally aware of any</p> <p>3 money that is missing or unaccounted for?</p> <p>4 A. No, I'm not. All I know --</p> <p>5 Q. Do you --</p> <p>6 A. -- is that the Seaveys have all the</p> <p>7 records. And if I'm inaccurate, then I'm</p> <p>8 inaccurate. They have all the records. They</p> <p>9 keep those records. They make it difficult or</p> <p>10 impossible to get any copy of anything that might</p> <p>11 tend to support the fact that they are receiving</p> <p>12 monies from these rental institutions, from the</p> <p>13 garage and so forth.</p> <p>14 Q. Mr. Edmonds, do you have any</p> <p>15 documents that show you that the monthly reports</p> <p>16 that you receive are inaccurate?</p> <p>17 A. No, I do not. I have documents only</p> <p>18 that show very recently the monthly reports have</p> <p>19 been made more difficult to decipher. They</p> <p>20 changed the way in which they were reporting up</p> <p>21 to 2008 and in 2009. Now the monthly reports are</p> <p>22 different.</p> <p>23 Q. Mr. Edmonds, were you a party to a</p> <p>24 conversation where all the defendants conspired</p> <p>25 to transfer money away from the partnerships to</p>	<p style="text-align: right;">216</p> <p>1 John Edmonds</p> <p>2 A. No, I'm not.</p> <p>3 MR. TRAUB: Let's just take a</p> <p>4 five-minute break real quick. And I might</p> <p>5 be finished. I just want to look over</p> <p>6 everything one more time.</p> <p>7 (Recess from the record.)</p> <p>8 MR. TRAUB: Back on the record.</p> <p>9 BY MR. TRAUB:</p> <p>10 Q. Mr. Edmonds, this agreement that you</p> <p>11 state that you saw at the Albany Secretary of</p> <p>12 State, do you have a copy of that?</p> <p>13 A. No, I do not.</p> <p>14 Q. Do you remember the name of the</p> <p>15 document that you saw?</p> <p>16 A. It was just a document that set</p> <p>17 forth the -- the name of the -- of the company</p> <p>18 filed by Avery, the ABNS name, setting forth that</p> <p>19 previously the Seaveys had listed these -- these</p> <p>20 corporations, et cetera, as being inactive.</p> <p>21 They were -- they were apparently filed and they</p> <p>22 would indicate to the State that they're not</p> <p>23 operating these -- these companies.</p> <p>24 Q. And which companies are you</p> <p>25 referring to when you say "these companies"? The</p>
<p style="text-align: right;">215</p> <p>1 John Edmonds</p> <p>2 the Seaveys?</p> <p>3 A. No, I've never been a party to any</p> <p>4 such conversation.</p> <p>5 Q. Are you aware of any witness who</p> <p>6 claims to have documentary or other evidence that</p> <p>7 the defendants conspired to transfer money away</p> <p>8 from the partnerships to the Seaveys?</p> <p>9 A. I only have the statement that I</p> <p>10 made to you that -- that Hank Harris has</p> <p>11 indicated to me that the lease agreements with</p> <p>12 Merit Parking are such that it is substantially</p> <p>13 below what is the market in the area.</p> <p>14 And beyond that, that -- that the</p> <p>15 agreement is an agreement between ABNS and the</p> <p>16 Merit Parking Corporation, with Merit Parking</p> <p>17 having the right to endless renewals at a</p> <p>18 below-the-market rate interest -- or payment.</p> <p>19 Q. Mr. Edmonds, are you aware of any</p> <p>20 witness who claims to have witnessed or</p> <p>21 participated in a conversation --</p> <p>22 A. No, I'm not.</p> <p>23 Q. -- where the defendants conspired to</p> <p>24 transfer money away from the partnership to the</p> <p>25 Seaveys?</p>	<p style="text-align: right;">217</p> <p>1 John Edmonds</p> <p>2 garages or ABNS?</p> <p>3 A. ABNS, ABNS.</p> <p>4 Q. So is it a certificate of</p> <p>5 incorporation for ABNS that you're referring to?</p> <p>6 A. Yes, it would be the certificate of</p> <p>7 incorporation.</p> <p>8 Q. And that's the basis for your belief</p> <p>9 that ABNS is getting money paid directly from the</p> <p>10 garages and the laundromat?</p> <p>11 A. That and statements made to me by</p> <p>12 reliable sources that the Seaveys have</p> <p>13 contractual agreements with -- with the laundry</p> <p>14 and with the garage.</p> <p>15 Q. And who --</p> <p>16 A. What I basically --</p> <p>17 Q. Mr. Edmonds, who are those reliable</p> <p>18 sources that told you that?</p> <p>19 A. I just decline to disclose them at</p> <p>20 this time.</p> <p>21 Q. Are they the same ones that you're</p> <p>22 referring to earlier that told you that there</p> <p>23 were contracts with vendors to deliver</p> <p>24 materials --</p> <p>25 A. I decline to comments on that.</p>

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<p style="text-align: right;">218</p> <p>1 John Edmonds</p> <p>2 Okay. But what really is the -- is the cooker</p> <p>3 here is the kind of provisions that is set forth</p> <p>4 in the lease agreement with this vendor.</p> <p>5 Q. It's your contention that, because</p> <p>6 the lease is under market and renews for</p> <p>7 indefinite period of time, that that is the basis</p> <p>8 for your contention that the Seaveys are getting</p> <p>9 some sort of payment directly from the garage</p> <p>10 and/or the laundromat?</p> <p>11 A. That's correct.</p> <p>12 MR. TRAUB: Thank you. Nothing</p> <p>13 further.</p> <p>14 Bill, I don't know if you wanted to</p> <p>15 start. It's 4:15.</p> <p>16 MR. KELLY: I can start.</p> <p>17 EXAMINATION</p> <p>18 BY MR. KELLY:</p> <p>19 Q. Good afternoon, Mr. Edmonds.</p> <p>20 A. Good afternoon, sir.</p> <p>21 Q. I'm going to try my best to avoid</p> <p>22 going over some of the same ground, but I may --</p> <p>23 A. That would be appreciated.</p> <p>24 Q. -- I may seem to be doing that when</p> <p>25 I introduce whatever topic I'm going to be</p>	<p style="text-align: right;">220</p> <p>1 John Edmonds</p> <p>2 it would be a most unusual circumstance for the</p> <p>3 partnerships -- or the partnership, Fifth and</p> <p>4 106th Street, to enter into an agreement with a</p> <p>5 below-the-market-rate tenant and, beyond that, to</p> <p>6 enter into an agreement where all the rights to</p> <p>7 renewal, et cetera, lie with the tenants.</p> <p>8 Q. So I guess my question is, if he</p> <p>9 didn't know what the rate under the lease was,</p> <p>10 how could he know if it was below market?</p> <p>11 A. He apparently knew that it was below</p> <p>12 market because of his expertise in the community.</p> <p>13 He had clients that were -- or has clients that</p> <p>14 were in the business, in the parking business.</p> <p>15 And on that basis -- and this was</p> <p>16 maybe three years ago, two or three years ago.</p> <p>17 On that basis, he said that any -- that there</p> <p>18 must be an arrangement made with the -- with the</p> <p>19 garage operator because of the advantages that he</p> <p>20 had under the terms of the lease.</p> <p>21 Q. Are you familiar with -- well, let</p> <p>22 me withdraw that.</p> <p>23 Do you have any educational</p> <p>24 background in accounting?</p> <p>25 A. No.</p>
<p style="text-align: right;">219</p> <p>1 John Edmonds</p> <p>2 addressing, so bear with me.</p> <p>3 You mentioned the name Hal Harris</p> <p>4 before.</p> <p>5 A. Yes.</p> <p>6 Q. What is your relationship with</p> <p>7 Mr. Harris?</p> <p>8 A. None other than that he's a tenant</p> <p>9 and a real estate broker.</p> <p>10 Q. Do you know where Mr. Harris'</p> <p>11 address is?</p> <p>12 A. Yes, he lives in Lakeview. And he</p> <p>13 hasn't paid Seavey any rent recently --</p> <p>14 THE WITNESS: Did he pay his rent</p> <p>15 yet, Bob?</p> <p>16 Q. When did he tell you that the</p> <p>17 market -- that the garage lease was below market?</p> <p>18 A. Oh, maybe a couple of years ago.</p> <p>19 Based upon his -- his relationship with other</p> <p>20 clients.</p> <p>21 Q. Do you know how he came to learn</p> <p>22 what the lease for the garage required as the</p> <p>23 lease payments?</p> <p>24 A. No, I don't think he indicated what</p> <p>25 the payments were. He just indicated to me that</p>	<p style="text-align: right;">221</p> <p>1 John Edmonds</p> <p>2 Q. Have you ever taken any accounting</p> <p>3 courses?</p> <p>4 A. None.</p> <p>5 Q. Are you familiar with generally</p> <p>6 accepted auditing standards?</p> <p>7 A. I hear accountants use that term. I</p> <p>8 don't know what it means.</p> <p>9 Q. Are you familiar with government</p> <p>10 auditing standards?</p> <p>11 A. No. I don't know anything about</p> <p>12 accounting. That's the reason I've retained</p> <p>13 these accountants.</p> <p>14 Q. Are you aware that there are several</p> <p>15 paragraphs in your affidavit that you discuss</p> <p>16 generally accepted auditing standards and you</p> <p>17 cite specific --</p> <p>18 A. I discussed them only on the basis</p> <p>19 of my discussion with my -- with my auditors.</p> <p>20 Q. Which one of your auditors did you</p> <p>21 have the discussion regarding Section 3.1 --</p> <p>22 A. With all of them at any meeting that</p> <p>23 we might have.</p> <p>24 Q. Are you familiar with the term</p> <p>25 "trial balance"?</p>

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<p style="text-align: right;">222</p> <p>1 John Edmonds</p> <p>2 A. Yes, I've heard of the term.</p> <p>3 Q. What is your understanding of what a</p> <p>4 trial balance is?</p> <p>5 MR. HAYWOODE: Objection. Vague as</p> <p>6 to what his understanding is.</p> <p>7 The witness can answer.</p> <p>8 A. All I know is that it would be a</p> <p>9 record, I assume, kept by the management company,</p> <p>10 in this instance, of the monies received and the</p> <p>11 expenditure.</p> <p>12 Q. You spent a paragraph in your</p> <p>13 affidavit discussing the definition of a trial</p> <p>14 balance --</p> <p>15 A. Based upon that definition given to</p> <p>16 me by my accountants.</p> <p>17 Q. But other than what your accountants</p> <p>18 told you, do you have any understanding of what a</p> <p>19 trial balance is?</p> <p>20 A. No, I don't.</p> <p>21 Q. Do you know what a general ledger</p> <p>22 is?</p> <p>23 A. No, except that my accountants</p> <p>24 indicated, with respect to the Seaveys, that the</p> <p>25 general ledger was not kept up to date.</p>	<p style="text-align: right;">224</p> <p>1 John Edmonds</p> <p>2 THE WITNESS: Yes, that's correct.</p> <p>3 And it also -- the affidavit reflects the</p> <p>4 information as gathered by the accountants</p> <p>5 as of that time. And I think that what</p> <p>6 they were referencing is the 2006 records</p> <p>7 that they had been able to review.</p> <p>8 BY MR. KELLY:</p> <p>9 Q. Do you know what a journal entry is?</p> <p>10 A. Nope.</p> <p>11 Q. To the extent that there's</p> <p>12 discussion of journal entries in your affidavit,</p> <p>13 is that based upon -- what is that based upon?</p> <p>14 A. Based upon my discussion with my</p> <p>15 accountants.</p> <p>16 Q. Do you have any knowledge -- or at</p> <p>17 the time you -- at the time you signed this</p> <p>18 affidavit, did you have any knowledge of the</p> <p>19 procedures for journal entries at Dalton?</p> <p>20 A. No, that's -- that's something that</p> <p>21 Dalton keeps among itself. I do recall the</p> <p>22 testimony of the chief operating officer with</p> <p>23 respect to the journal entries, et cetera.</p> <p>24 Q. So what is the basis for your</p> <p>25 statement in the affidavit, page 25,</p>
<p style="text-align: right;">223</p> <p>1 John Edmonds</p> <p>2 Q. Who told you that the general ledger</p> <p>3 was not kept up to date?</p> <p>4 A. The accountants.</p> <p>5 Q. Was it one of the accountants or all</p> <p>6 of the accountants?</p> <p>7 A. In the course of my discussion with</p> <p>8 them, that was their analysis on the basis of the</p> <p>9 examination of 2006.</p> <p>10 Q. So to the extent there's a</p> <p>11 discussion in your affidavit about trial balances</p> <p>12 or general ledgers, it's based on your</p> <p>13 discussions with the accountants?</p> <p>14 A. That's correct.</p> <p>15 Q. No other independent knowledge that</p> <p>16 you bring from somewhere else?</p> <p>17 A. No.</p> <p>18 MR. HAYWOODE: For the record,</p> <p>19 Mr. Dawley testified to these things in</p> <p>20 Mr. Edmonds' presence. That record will</p> <p>21 speak for itself.</p> <p>22 MR. TRAUB: The record will also</p> <p>23 show that that deposition was taken months</p> <p>24 after the filing of the complaint and the</p> <p>25 affidavit.</p>	<p style="text-align: right;">225</p> <p>1 John Edmonds</p> <p>2 paragraph 50, "Clearly defendants are in blatant</p> <p>3 violation of the government auditing</p> <p>4 standards" --</p> <p>5 A. Based upon --</p> <p>6 Q. Excuse me, let me finish.</p> <p>7 -- "since the conduct of defendants</p> <p>8 Dalton, Dawley and Marks Paneth & Shron</p> <p>9 demonstrates that defendant Dalton is not the</p> <p>10 party preparing the account journals"?</p> <p>11 A. Well, based upon two things. First</p> <p>12 of all, the statement by the accountants, the</p> <p>13 statement by the accountants. And then Dawley's</p> <p>14 own testimony.</p> <p>15 Q. Well, wasn't Mr. Dawley's testimony</p> <p>16 taken several months after you signed this</p> <p>17 affidavit?</p> <p>18 A. Yes.</p> <p>19 Q. So that couldn't be the basis of</p> <p>20 this affidavit.</p> <p>21 A. Yes --</p> <p>22 MR. HAYWOODE: I'm going to object</p> <p>23 to that because Dawley talked to the</p> <p>24 accountants originally. If he said the</p> <p>25 same thing to them that he said at the</p>

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<p style="text-align: right;">226</p> <p>1 John Edmonds</p> <p>2 deposition on February 24th, that might</p> <p>3 explain it.</p> <p>4 I just point that out as an</p> <p>5 objection to form. You're saying it</p> <p>6 couldn't have happened, but they talked to</p> <p>7 each other. I don't know.</p> <p>8 BY MR. KELLY:</p> <p>9 Q. So if the deposition of Dawley</p> <p>10 happened after you signed this affidavit, then it</p> <p>11 couldn't form the basis of any knowledge you had</p> <p>12 in --</p> <p>13 A. I've indicated to you --</p> <p>14 MR. HAYWOODE: Objection again.</p> <p>15 Go on.</p> <p>16 A. -- that the information that I have</p> <p>17 in connection with my affidavit is information</p> <p>18 that I've secured from my accountants. And their</p> <p>19 information I gather is based upon their</p> <p>20 conversations with Dawley and Nealle Seavey and,</p> <p>21 I guess, Phyllis Seavey.</p> <p>22 Q. When did you have the conversation</p> <p>23 with the accountants in which they gave you</p> <p>24 information that supported the statement that</p> <p>25 Marks Paneth and not Dalton is a party to</p>	<p style="text-align: right;">228</p> <p>1 John Edmonds</p> <p>2 any of the partnerships?</p> <p>3 A. Nope. The only thing I ever</p> <p>4 received from Dalton are the -- as I said, the</p> <p>5 family court records and checks that impact upon</p> <p>6 the employees at the various projects.</p> <p>7 Q. So in your affidavit, when you</p> <p>8 state, "A review of these invoices show that</p> <p>9 they're not accrued, but instead charged against</p> <p>10 the 2006 expenses, which is a departure from</p> <p>11 generally accepted accounting principles" --</p> <p>12 A. That's a statement made to me by my</p> <p>13 accountants.</p> <p>14 Q. You have no other outside knowledge</p> <p>15 about what the contents of the invoices show or</p> <p>16 whether or not --</p> <p>17 A. No.</p> <p>18 Q. -- they depart from generally</p> <p>19 accepted accounting principles?</p> <p>20 A. None.</p> <p>21 Q. Did you ever have the occasion to</p> <p>22 have a conversation with William Jennings from</p> <p>23 Marks Paneth & Shron?</p> <p>24 A. I've had some conversations with</p> <p>25 Jennings through the years, but usually I speak</p>
<p style="text-align: right;">227</p> <p>1 John Edmonds</p> <p>2 preparing the account journal entries?</p> <p>3 A. I believe that the accountants</p> <p>4 interviewed Dawley in his capacity as chief</p> <p>5 operating officer and inquired, about these</p> <p>6 government operating standards and the other</p> <p>7 standards, of him.</p> <p>8 And apparently he responded in the</p> <p>9 same way in which he responded in his testimony,</p> <p>10 that -- I have to think. He must have told them,</p> <p>11 because that's what they told me, that these --</p> <p>12 that the Seaveys do not keep a record of their</p> <p>13 management and control of the monies, that they</p> <p>14 write down the figure and they put a check next</p> <p>15 to that figure, or -- and/or bill or whatever,</p> <p>16 and that they then give it to the accountant and</p> <p>17 then the accountant converts it to meet their</p> <p>18 needs.</p> <p>19 Q. So the basis of your discussion in</p> <p>20 your affidavit regarding journal entries is</p> <p>21 solely based upon your knowledge received from</p> <p>22 the accountants?</p> <p>23 A. That's correct.</p> <p>24 Q. Have you ever reviewed any invoices</p> <p>25 submitted by Marks Paneth & Shron to Dalton or</p>	<p style="text-align: right;">229</p> <p>1 John Edmonds</p> <p>2 to his first assistant, young lady.</p> <p>3 Q. Do you recall that young lady's</p> <p>4 name?</p> <p>5 A. No.</p> <p>6 Q. Do you recall having a conversation</p> <p>7 with Mr. Jennings at the end of 2007 regarding</p> <p>8 requests for information from your accountants?</p> <p>9 A. I may have. I know that -- I know</p> <p>10 that I had informed Rudy Clark he should -- at</p> <p>11 that time that he should be in touch with</p> <p>12 Jennings. And also I told the accountants,</p> <p>13 Cameron, et cetera, that they should talk to</p> <p>14 Jennings.</p> <p>15 Q. You mentioned Rudy Clark in your</p> <p>16 answer just now. Did you have discussions with</p> <p>17 Mr. Clark regarding contacting William Jennings</p> <p>18 or Marks Paneth & Shron?</p> <p>19 A. Yeah, I told him to be in touch with</p> <p>20 them to get complete copies of tax returns on</p> <p>21 each of these developments, the whole return, not</p> <p>22 just that part of the return that might impact</p> <p>23 on -- on me.</p> <p>24 Q. Do you know when you spoke with</p> <p>25 Mr. Clark about getting this information from</p>

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<p style="text-align: right;">230</p> <p>1 John Edmonds</p> <p>2 Marks Paneth & Shron?</p> <p>3 A. Oh, I think I spoke to him at the</p> <p>4 time when I first discussed with him this</p> <p>5 process, that I was going to go forward on this.</p> <p>6 And also Rudy had informed me that they sent him,</p> <p>7 you know, only a partial return. I don't know</p> <p>8 the term for it.</p> <p>9 But that did not reflect the</p> <p>10 return -- did not reflect all of the information</p> <p>11 necessary for him to do a tax return that</p> <p>12 reflects properly what my interest was,</p> <p>13 et cetera.</p> <p>14 And as a matter of fact, it appeared</p> <p>15 that the tax return was prepared such that</p> <p>16 Edmonds ended up paying all the taxes.</p> <p>17 Q. Do you know who prepared the tax</p> <p>18 returns for the partnerships?</p> <p>19 A. I only know that the only firm</p> <p>20 that's represented Seavey, maybe for 40 years, is</p> <p>21 the Shron firm.</p> <p>22 MR. HAYWOODE: Indicating the</p> <p>23 defendant Marks Paneth & Shron.</p> <p>24 Q. Do you recall when you had Mr. Clark</p> <p>25 request this information?</p>	<p style="text-align: right;">232</p> <p>1 John Edmonds</p> <p>2 A. Only that he said he would be away</p> <p>3 for two or three weeks.</p> <p>4 Q. Did you say anything during that</p> <p>5 conversation?</p> <p>6 A. To him?</p> <p>7 Q. Yes, to him.</p> <p>8 A. I said to him that -- you know, that</p> <p>9 Cameron Griffiths are in need of this information</p> <p>10 if we're going to progress in terms of our</p> <p>11 lawsuit, and that we shouldn't have to wait until</p> <p>12 he came back from Europe to get that information.</p> <p>13 And he said, John, you know, my</p> <p>14 assistant is here and you can always deal with</p> <p>15 her.</p> <p>16 Q. And did you direct Cameron</p> <p>17 Griffiths' advice to deal with the assistant?</p> <p>18 A. I don't recall whether I did or not,</p> <p>19 but I probably did.</p> <p>20 Q. In your communications with Cameron</p> <p>21 Griffiths & Pryce, did you ever have any written</p> <p>22 communications to them?</p> <p>23 A. No. My communications with Cameron</p> <p>24 Griffiths & Pryce are always at meetings in their</p> <p>25 office in Brooklyn, on Utica Avenue.</p>
<p style="text-align: right;">231</p> <p>1 John Edmonds</p> <p>2 A. Is it -- when I first spoke to him</p> <p>3 before I retained these accountants as a result</p> <p>4 of Rudy saying to me that he could not do this</p> <p>5 kind of investigation because of his engagements</p> <p>6 and work in North Carolina, and that I should</p> <p>7 seek other accountants who are familiar with</p> <p>8 affordable housing projects and the requirements</p> <p>9 of the federal government and the state</p> <p>10 government and the City of New York.</p> <p>11 Q. Did Mr. Clark ever advise you that</p> <p>12 money was unaccounted for with regards to the</p> <p>13 partnerships?</p> <p>14 A. I don't think he did. I don't think</p> <p>15 he advised me of that. I think that information</p> <p>16 I received from Cameron, et cetera.</p> <p>17 Q. Going back to communications,</p> <p>18 conversations you may have had with Mr. Jennings,</p> <p>19 do you recall a particular phone call in which</p> <p>20 Mr. Jennings said he was going to Europe and that</p> <p>21 he wouldn't be able to respond to requests from</p> <p>22 Cameron Griffiths?</p> <p>23 A. Yes.</p> <p>24 Q. What do you recall about that</p> <p>25 conversation?</p>	<p style="text-align: right;">233</p> <p>1 John Edmonds</p> <p>2 Q. Other than the two reports that have</p> <p>3 been marked in evidence today, which is</p> <p>4 Exhibit 4 --</p> <p>5 A. Those are the reports related to the</p> <p>6 2006 --</p> <p>7 Q. -- and Exhibit A to your affidavit,</p> <p>8 have they provided you any other written</p> <p>9 materials?</p> <p>10 A. No other written. Oral materials.</p> <p>11 They have said A, B and C, and they're still</p> <p>12 having great difficulty in getting the Seaveys to</p> <p>13 make books, records, et cetera, available to</p> <p>14 them.</p> <p>15 Q. Have they complained to you about</p> <p>16 Marks Paneth & Shron not making books and records</p> <p>17 available that were in their possession?</p> <p>18 A. I don't recall them making any</p> <p>19 statement to that effect as to Marks Paneth &</p> <p>20 Shron.</p> <p>21 Q. Are you aware of any statement by</p> <p>22 Marks Paneth & Shron, written or oral, that you</p> <p>23 believe to be false?</p> <p>24 A. There's no basis for me to -- to</p> <p>25 assume that any statement that they made may be</p>

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<p style="text-align: right;">234</p> <p>1 John Edmonds 2 false; but I do refer you to my conversations 3 with Cameron in which -- when I say "Cameron," I 4 mean his group -- in which they indicate to me 5 that the Shron auditors have the principal 6 responsibility for the returns and accounting at 7 Dalton Management. 8 Q. Which one of the auditors told that 9 to you? 10 A. These are discussions I have had 11 with all three auditors at one time. Usually the 12 meetings -- everybody's present at the meeting. 13 You know, these auditors -- 14 Q. Are you aware -- can you identify -- 15 MR. HAYWOODE: Bill, you asked a 16 question several -- three questions back, 17 and I apologize being late with it, 18 concerning anyone writing to Marks Paneth & 19 Shron. 20 I would -- 21 MR. KELLY: No, I did not ask a 22 question about anybody writing to Marks 23 Paneth & Shron. 24 MR. HAYWOODE: Well, if you didn't, 25 then I will not point to the series of</p>	<p style="text-align: right;">236</p> <p>1 John Edmonds 2 MR. HAYWOODE: -- and I object to 3 the form of the question. 4 MR. TRAUB: Mel, a deposition is not 5 your place to argue with the question other 6 than to form or instruct the witness if 7 there's a problem. This is not an 8 opportunity to argue the merits of the 9 case. 10 MR. HAYWOODE: I'm not arguing the 11 merits of any case. I'm just pointing out 12 that the question carries a tautology in it 13 because it's saying did they make any 14 representations to you when they made 15 representations in a financial statement. 16 Now, who would that be to? 17 Certainly not the subscribers to the New 18 York Times. 19 MR. TRAUB: You're now arguing with 20 me. 21 MR. HAYWOODE: I'm not arguing. I 22 object to the form of the question. 23 MR. KELLY: Make your objection and 24 then we proceed. 25 MR. TRAUB: You don't need to give,</p>
<p style="text-align: right;">235</p> <p>1 John Edmonds 2 letters contained in the -- 3 MR. KELLY: Let's not point to them. 4 MR. HAYWOODE: But if you did, there 5 are several letters in the order to show 6 cause addressed to Marks Paneth & Shron 7 here from the accountants. 8 BY MR. KELLY: 9 Q. Do you recall, Mr. Edmonds, any 10 representations that have been made to you from 11 Marks Paneth & Shron? 12 A. Representations of what nature? 13 Q. Do you recall any statements made to 14 you by Marks Paneth & Shron? 15 MR. HAYWOODE: Note my objection to 16 the form. 17 Because they issued financial 18 statements every year concerning -- 19 MR. KELLY: Mel, no. You have your 20 objection. You don't need to suggest 21 information to the witness. 22 MR. HAYWOODE: Well, you're saying 23 did they make any representations and there 24 is a financial statement -- 25 MR. KELLY: Mel, please --</p>	<p style="text-align: right;">237</p> <p>1 John Edmonds 2 nor are you entitled to give your basis for 3 your objection to form. You're entitled to 4 say, Objection to form, and that's it. 5 THE WITNESS: Well, I gather that 6 the process that Mr. Kelly is following 7 here is an attempt to, in effect, indict 8 the accountants. When I say that, I mean 9 he's trying to show that these accountants, 10 these community accountants, as they've 11 been called by people, don't really know 12 what they're doing and so, therefore, any 13 information that they've gleaned is 14 invalid. 15 BY MR. KELLY: 16 Q. I'll ask the question again. 17 Do you recall any statements from 18 Marks Paneth & Shron to you? 19 MR. HAYWOODE: Same objection. 20 A. I've said to you that, based upon my 21 accountants report, 2006 report, and my various 22 meetings with the Cameron group, I made the 23 statement that I made in my affidavit. 24 Q. So is your testimony that you do not 25 recall any statements made by Marks Paneth &</p>

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<p style="text-align: right;">238</p> <p>1 John Edmonds</p> <p>2 Shron to you?</p> <p>3 A. To me, no. Because I -- the only</p> <p>4 statement that I recall is the one that I've</p> <p>5 already testified to, when Jennings told me that</p> <p>6 he'd be away for three to four weeks and that I</p> <p>7 could deal with his assistant.</p> <p>8 Q. In your discussions with your</p> <p>9 accountants, were any statements that Marks</p> <p>10 Paneth & Shron made to them communicated to you?</p> <p>11 MR. HAYWOODE: Objection to form.</p> <p>12 How would he know? Well, objection.</p> <p>13 A. Repeat your question. What did you</p> <p>14 say?</p> <p>15 Q. In your discussion with your</p> <p>16 accountants, did they tell you about any</p> <p>17 statements that Marks Paneth & Shron made to</p> <p>18 them?</p> <p>19 A. They may have. They probably did,</p> <p>20 once again, in the meetings that we would have.</p> <p>21 Q. Do you recall if they identified any</p> <p>22 statements that they believe were made by Marks</p> <p>23 Paneth & Shron that they believed to be false?</p> <p>24 A. No, they merely point to the role</p> <p>25 that Marks Paneth & Shron has in the</p>	<p style="text-align: right;">240</p> <p>1 John Edmonds</p> <p>2 were said to you at the time that you entered</p> <p>3 into these agreements?</p> <p>4 A. I've said to you that -- that --</p> <p>5 well, there's really only one kind of approach</p> <p>6 that Seavey would make that grew out of my use my</p> <p>7 own monies, that is the monies that I was</p> <p>8 entitled to get from the partnerships in which he</p> <p>9 said that he required -- the partnerships</p> <p>10 required me to resign and they required me to</p> <p>11 have a limited time, one year, to return the</p> <p>12 funds, failure to return the funds would mean</p> <p>13 that I would lose my general partnership and that</p> <p>14 I would become 1.4 -- one-fourth partner --</p> <p>15 limited partner and that, at my death, the</p> <p>16 properties would go to the Seaveys.</p> <p>17 Q. Are you aware of --</p> <p>18 MR. HAYWOODE: Are you finished?</p> <p>19 A. And I said that the monies that I</p> <p>20 used and repaid was a year late on the basis of</p> <p>21 the advice given to me by Seavey in which he</p> <p>22 said, Just put the check in the account and mark</p> <p>23 it as CL number so and so and so, and it would</p> <p>24 go -- the bank will have that returned to the</p> <p>25 account.</p>
<p style="text-align: right;">239</p> <p>1 John Edmonds</p> <p>2 partnerships. It's their position that the books</p> <p>3 and records of the partnerships are kept by the</p> <p>4 Shron firm, not by partnerships.</p> <p>5 Q. And other than what your accountants</p> <p>6 have told you, you have no source of information</p> <p>7 for that belief?</p> <p>8 A. No, I haven't.</p> <p>9 Q. Have you seen any advertisements by</p> <p>10 Marks Paneth & Shron?</p> <p>11 A. None that I know of.</p> <p>12 MR. HAYWOODE: Off the record.</p> <p>13 (Discussion off the record.)</p> <p>14 BY MR. KELLY:</p> <p>15 Q. What contracts did you enter into</p> <p>16 based upon fraudulent statements?</p> <p>17 A. All of them.</p> <p>18 Q. When did you enter into these</p> <p>19 contracts?</p> <p>20 A. Whenever the dates are on the</p> <p>21 documents.</p> <p>22 Q. Are you referring to the partnership</p> <p>23 agreements?</p> <p>24 A. Yeah.</p> <p>25 Q. Can you identify what statements</p>	<p style="text-align: right;">241</p> <p>1 John Edmonds</p> <p>2 And I also said that those were -- I</p> <p>3 recognized late that those weren't Seaveys' money</p> <p>4 that he was talking about. He was talking about</p> <p>5 my own monies.</p> <p>6 Q. Are you referring to the agreement</p> <p>7 marked as Exhibit 10?</p> <p>8 A. I guess so. That's the agreement in</p> <p>9 which he had me sign all these things, yes, in</p> <p>10 order to get this advance.</p> <p>11 Q. Exhibit 9 and 10 actually is what I</p> <p>12 was referring to.</p> <p>13 THE WITNESS: Where's 9?</p> <p>14 MR. HAYWOODE: Here's 10.</p> <p>15 BY MR. KELLY:</p> <p>16 Q. Prior to commencing this action, did</p> <p>17 you give any consideration to what impact a</p> <p>18 complaint for \$500 million would have on</p> <p>19 defendant Marks Paneth & Shron?</p> <p>20 A. Yeah, serious consideration to that.</p> <p>21 Q. What was your consideration?</p> <p>22 A. I thought it would send their heads</p> <p>23 spinning in particular, if a jury made that kind</p> <p>24 of an award.</p> <p>25 Q. Did you consider the impact on Marks</p>

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<p style="text-align: right;">242</p> <p>1 John Edmonds</p> <p>2 Paneth & Shron's business that a filing of a</p> <p>3 \$500 million complaint would have?</p> <p>4 A. No, I didn't consider that. I</p> <p>5 considered only that I would sign this complaint</p> <p>6 and that we would proceed and that -- that the</p> <p>7 courts would make that determination as we went</p> <p>8 down the road.</p> <p>9 Q. I want to direct your attention to</p> <p>10 Exhibit 8, which is a letter from the Internal</p> <p>11 Revenue Service.</p> <p>12 A. Yeah.</p> <p>13 Q. Do you recall discussing this letter</p> <p>14 earlier today?</p> <p>15 A. Yeah.</p> <p>16 Q. Isn't it probable and possible that</p> <p>17 the IRS proposed no change to the tax returns</p> <p>18 because they were done properly to begin with?</p> <p>19 A. Yes, that's all together probable</p> <p>20 and possible. But I don't know why then they</p> <p>21 would require Seavey to notice the partnerships</p> <p>22 and its participants to the effect that there</p> <p>23 need not be any change in his return.</p> <p>24 And Seavey said so in his letter.</p> <p>25 He said that pursuant to the direction of the</p>	<p style="text-align: right;">244</p> <p>1 John Edmonds</p> <p>2 Q. Has anyone ever told you that Marks</p> <p>3 Paneth & Shron has done anything wrong in</p> <p>4 connection with their work done on behalf of the</p> <p>5 partnerships --</p> <p>6 A. Yes, yeah. Sure. That's what my</p> <p>7 accountants have stated.</p> <p>8 Q. What have they stated in that</p> <p>9 regard?</p> <p>10 A. They stated that Marks Paneth &</p> <p>11 Shron are not auditors, but they're both the</p> <p>12 bookkeepers and the auditors.</p> <p>13 Q. Which one of the accountants told</p> <p>14 you that?</p> <p>15 A. The group, as a result of what they</p> <p>16 saw in the 2006 books and records.</p> <p>17 Q. And when did they tell you that?</p> <p>18 A. From the very beginning of their --</p> <p>19 of their tenure.</p> <p>20 Q. When did you decide to include Marks</p> <p>21 Paneth & Shron as a defendant in this action?</p> <p>22 A. I decided to include them because I</p> <p>23 felt that they were facilitating this wrongful</p> <p>24 conduct by -- and protecting the Seaveys in that</p> <p>25 wrongful conduct, in that racketeering.</p>
<p style="text-align: right;">243</p> <p>1 John Edmonds</p> <p>2 Internal Revenue Service, you are hereby noticed</p> <p>3 that the return that was filed on the year it was</p> <p>4 filed, I think, what, 2003, has been accepted,</p> <p>5 and I'm sending you this letter or notice</p> <p>6 pursuant to the direction of the Internal Revenue</p> <p>7 Service.</p> <p>8 So, you know --</p> <p>9 Q. Do you see that the letter is</p> <p>10 addressed to Mr. Jennings of Marks Paneth &</p> <p>11 Shron?</p> <p>12 A. I don't know who it's addressed to.</p> <p>13 I only know that I got a copy of it from Seavey.</p> <p>14 Q. Do you have any knowledge of any</p> <p>15 work besides -- well, let me withdraw that.</p> <p>16 What is your understanding of the</p> <p>17 work Marks Paneth & Shron did on behalf of the</p> <p>18 partnerships and Dalton Management?</p> <p>19 A. They are, according to the Seaveys,</p> <p>20 auditors of the partnerships. They also</p> <p>21 apparently convert the -- the Seaveys' factual</p> <p>22 situation into a form that reflects a consistent</p> <p>23 and accurate return. In other words, they play a</p> <p>24 dual role. The exact nature of that role, you</p> <p>25 know, I don't want to argue, but --</p>	<p style="text-align: right;">245</p> <p>1 John Edmonds</p> <p>2 Q. When did you make that</p> <p>3 determination?</p> <p>4 A. I made that determination when my</p> <p>5 accountants reported to me the dual role of Marks</p> <p>6 Paneth & Shron. They said that's against</p> <p>7 accounting standards, that was improper; that</p> <p>8 you --</p> <p>9 Q. Did they --</p> <p>10 A. They said the two functions should</p> <p>11 be separated. And they said further, that,</p> <p>12 generally speaking, in order for an accounting</p> <p>13 firm to establish that they are strictly the</p> <p>14 auditors, that there was a procedure whereby the</p> <p>15 client would -- would be required by the auditing</p> <p>16 firm to get another auditor for -- to make</p> <p>17 certain that their role was not improperly</p> <p>18 interpreted.</p> <p>19</p> <p>20 THE WITNESS: Any further questions,</p> <p>21 Mr. Kelly?</p> <p>22 MR. KELLY: No, I have no further</p> <p>23 questions.</p> <p>24 THE WITNESS: Thank you very much.</p> <p>25 MR. TRAUB: I have just a few</p>

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<p style="text-align: right;">246</p> <p>1 John Edmonds 2 follow-up. 3 EXAMINATION (Cont'd.) 4 BY MR. TRAUB: 5 Q. Mr. Edmonds, you are an attorney; is 6 that correct? 7 A. That's correct. 8 Q. And you are a member of the state 9 bar of New York? 10 A. Yes, for 52 years. 11 Q. For 52 years as an attorney, and I 12 presume for equally as much time, if not more, as 13 a sophisticated businessman as well -- 14 A. I don't know whether I'm 15 sophisticated or not. And the reason I don't 16 know that is that a sophisticated businessman 17 wouldn't have allowed his partners to get the 18 kind of advantage that the Seaveys had in this 19 situation. 20 Q. Then as a businessman, before you 21 sign a contract, and especially as an attorney, 22 you review that contract, do you not? 23 A. Yes, of course. 24 Q. And you read every term in that 25 contract and you probably even negotiate</p>	<p style="text-align: right;">248</p> <p>1 John Edmonds 2 MR. TRAUB: Objection to the form. 3 I don't think that -- 4 MR. KELLY: No talking objections. 5 MR. TRAUB: I just object to form in 6 terms -- objection to the use of the term 7 "for redeeming your partnership interest." 8 A. Well, the -- did I pay -- how much I 9 paid, I think it was \$2.1 million. I'm not sure. 10 2.1 -- no, wait a minute. Was it -- no. Yeah, 11 it was 2.1, but that included interest at the 12 rate of 16 percent annually. I paid that -- I 13 put that money back in the account that Seavey 14 instructed me to put it in. 15 Q. Was any further discussion held on 16 the subject after you paid that money? 17 A. No, I just told Bob that I was 18 redeeming my interest, although it was a year 19 late, by repaying the obligation. 20 Q. And in whose name was the account to 21 which you returned that money? 22 A. It was in the Morgan Chase account. 23 Q. Were you a signatory on that 24 account? 25 A. Yes, I was.</p>
<p style="text-align: right;">247</p> <p>1 John Edmonds 2 contracts that you sign before you sign them? 3 A. Yeah, particularly for clients, but 4 I don't do it necessarily with that kind of 5 approach as it relates to partners, people who 6 are in business with me. 7 Q. But you are capable of doing that 8 type of approach, are you not? 9 A. Yes. 10 MR. TRAUB: Nothing further. 11 EXAMINATION 12 BY MR. HAYWOODE: 13 Q. You mentioned the redemption of your 14 interest in the partnership paid in 2001 and that 15 you gave -- 16 A. No, I think -- I think -- was it 17 2001? Whatever the check -- the date -- I think 18 maybe it was 2001. 19 Q. September 2001, would that refresh 20 your recollection? 21 I'll withdraw the question. That's 22 not important. 23 How much money did you pay to redeem 24 your interest in the corporation? 25 A. I paid --</p>	<p style="text-align: right;">249</p> <p>1 John Edmonds 2 Q. Was anyone else a signatory along 3 with you on that account? 4 A. Seavey and -- as I read it, I 5 realized that Avery, Dalton Management and 6 Nealle, everybody was on the account. 7 MR. HAYWOODE: All right. Nothing 8 further. 9 (Examination concluded. The time is 10 4:55 p.m.) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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<div style="text-align: right;">250</div> <p>1</p> <p>2 STATE OF NEW YORK)</p> <p>3 ss:</p> <p>4 COUNTY OF WESTCHESTER)</p> <p>5</p> <p>6</p> <p>7 I, JOHN EDWARDS, the witness herein,</p> <p>8 having read the foregoing testimony of the pages</p> <p>9 of this deposition, do hereby certify it to be a</p> <p>10 true and correct transcript, subject to the</p> <p>11 correction, if any, shown on the attached page.</p> <p>12</p> <p>13 oOo</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 _____ JOHN EDWARDS</p> <p>19</p> <p>20</p> <p>21 Subscribed and sworn before me</p> <p>22 this ____ day of ____, 2009.</p> <p>23</p> <p>24</p> <p>25 _____ NOTARY PUBLIC</p>	<div style="text-align: right;">252</div> <p>1</p> <p>2 (Continued)</p> <p>3 EXHIBITS</p> <p>4</p> <p>5 Exhibit 7 6/22/07 Letter to variety of 152</p> <p>6 people from John Edmonds with</p> <p>7 attachments</p> <p>8 Exhibit 8 10/26/06 Letter from the IRS to 155</p> <p>9 Jennings with attachment</p> <p>10 Exhibit 9 Agreement for Purchase and Sale 168</p> <p>11 of Partnership Interest</p> <p>12 Exhibit 10 Second Amended Agreement of 168</p> <p>13 limited partnership of Fifth and</p> <p>14 106th Street Associates, L.P.</p> <p>15 Exhibit 11 Amended and Restated Certificate 174</p> <p>16 of Limited Partnership of Charles</p> <p>17 H. Housing Associates</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<div style="text-align: right;">251</div> <p>1</p> <p>2 April 17, 2009</p> <p>3 I N D E X</p> <p>4 WITNESS EXAMINATION BY PAGE</p> <p>5</p> <p>6 JOHN EDWARDS</p> <p>7</p> <p>8 MR. TRAUB 5</p> <p>9 MR. KELLY 218</p> <p>10 MR. TRAUB 246</p> <p>11 MR. HAYWOODE 247</p> <p>12</p> <p>13 EXHIBITS</p> <p>14 EDWARDS PAGE</p> <p>15 Exhibit 1 3/8/07 Letter to Seavey from 40</p> <p>16 Edmonds</p> <p>17 Exhibit 2 7/31/06 Letter to Edmonds from 51</p> <p>18 Seavey</p> <p>19 Exhibit 3 3/27/07 Letter to Seavey from 72</p> <p>20 Edmonds</p> <p>21 Exhibit 4 12/12/07 Cameron, Griffiths & 91</p> <p>22 Pryce letter attaching their</p> <p>23 report</p> <p>24 Exhibit 5 Affidavit in Support of Order to 120</p> <p>25 Show Cause</p> <p>26 Exhibit 6 Verified Complaint 126</p>	<div style="text-align: right;">253</div> <p>1</p> <p>2 ERRATA SHEET</p> <p>3 VERITEXT REPORTING COMPANY</p> <p>4 1-800-727-6396</p> <p>5 1350 BROADWAY</p> <p>6 NEW YORK, NEW YORK 10018</p> <p>7</p> <p>8 NAME OF CASE: EDMONDS V. SEAVEY</p> <p>9 DATE OF DEPOSITION: APRIL 17, 2009</p> <p>10 NAME OF DEPONENT: JOHN EDWARDS</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22 JOHN EDWARDS</p> <p>23 Subscribed and sworn to before me</p> <p>24 this ____ day of ____, 2009.</p> <p>25</p>

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